

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

STEVEN L. MARVIN,)	
Plaintiff,)	
)	No. 1:19-cv-382
-v-)	
)	Honorable Paul L. Maloney
RAY FLUEGEMAN, JANET CABLE, and)	
LYNN OWENS,)	
Defendants.)	
)	

ORDER ADOPTION REPORT & RECOMMENDATION

On February 27, 2020, United States Magistrate Judge Ray Kent issued a Report & Recommendation (“R&R”) recommending that the Court grant Defendants’ motion to dismiss Plaintiff Steven Marvin’s complaint for lack of subject matter jurisdiction (ECF No. 18). Marvin timely filed an objection (ECF No. 19). For the reasons to be discussed, the Court will overrule the objection and adopt the R&R as the Opinion of the Court.

Legal Framework

With respect to a dispositive motion, a magistrate judge issues a report and recommendation, rather than an order. After being served with an R&R issued by a magistrate judge, a party has fourteen days to file written objections to the proposed findings and recommendations. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). A district court judge reviews de novo the portions of the R&R to which objections have been filed. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b).

Only those objections that are specific are entitled to a de novo review under the statute. *Mira v. Marshall*, 806 F.2d 636, 637 (6th Cir. 1986) (per curiam) (holding the district

court need not provide de novo review where the objections are frivolous, conclusive, or too general because the burden is on the parties to “pinpoint those portions of the magistrate’s report that the district court must specifically consider”). Failure to file an objection results in a waiver of the issue and the issue cannot be appealed. *United States v. Sullivan*, 431 F.3d 976, 984 (6th Cir. 2005); *see also Thomas v. Arn*, 474 U.S. 140, 155 (1985) (upholding the Sixth Circuit’s practice). The district court judge may accept, reject, or modify, in whole or in part, the findings and recommendations made by the magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b).

Analysis

Marvin’s objection is composed primarily of quotes from various sources, including this Court’s local rules, the Internal Revenue Code, and the Federal Rules of Civil Procedure; none of these are reviewable objections. The sole specific objection in Marvin’s filing is that Magistrate Judge Kent erred when he determined that Plaintiff’s complaint was not brought under Section 7428 of the Internal Revenue Code. On de novo review of Marvin’s complaint, there is no reference to Section 7428 contained therein. Marvin did not mention that portion of the Internal Revenue Code, let alone seek relief under it. Therefore, the magistrate judge’s finding is not erroneous, and the remainder of the R&R’s analysis is sound. This Court does not have subject matter jurisdiction over Marvin’s complaint, so it must be dismissed. Accordingly,

IT IS ORDERED that the February 27, 2020 R&R (ECF No. 18) is **ADOPTED** as the opinion of the Court.

IT IS FURTHER ORDERED that Plaintiff's objection to the R&R (ECF No. 19) is **OVERRULED**.

IT IS FURTHER ORDERED that Defendant's motion for summary judgment (ECF No. 11) is **GRANTED**.

Judgment to follow.

IT IS SO ORDERED.

Date: March 30, 2020

/s/ Paul L. Maloney
Paul L. Maloney
United States District Judge